

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/567,134

Applicant(s)

IGARASHI ET AL.

Examiner

VICTOR MACARTHUR

Art Unit

3679

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 July 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 4-6, 15 and 16.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Victor MacArthur/
Primary Examiner, Art Unit 3679

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive.

As previously stated (see interview summary mailed 4/23/2010, office action mailed 7/22/2010, and the attached interview summary to be mailed herewith regarding the interview held today 11/8/2010) the drawings and claims remain deficient and obvious. Applicant has failed to effect the examiner's suggestions set forth in the interview mailed 4/23/2010. More specifically, it is still unclear what is being shown in figure 1. Is the gear prevented from further movement on the shaft in the installation direction by abutment, press fit, or some other means, or is the gear free for further sliding in the installation direction? The examiner reiterated that the claims would be rendered allowable over the prior art by claiming that the hub/gear is prevented from further axial movement IN THE INSTALLATION DIRECTION with respect to the shaft. However, the written description would still have to be amended to clarify what is shown in figure 1 without the addition of new matter. Is the hub 14 shown installed as far back in the installation direction as it will go or is it free to slide further? Namely, does the rear face of 14 abut the back of the spline grooves of 12? Is it limited by other means such as press fit between 14 and 12 which prevents further intallation movement, or is 14 free to slide further on 12? Note that the written description regarding element 13 being a lock ring which prevents REMOVAL of 14 from 12 does not address the issue of whether 14 is free to move on 12 in the INSTALLATION DIRECTION further than what is shown in figure 1. It is important to clarify for the record whether the claimed limitations are at a position fully installed in the installation direction (i.e., prevented from further movement by abutment, press fit, etc.) or if the claim is at a position where further intallation direction movement is possible, since the later scenario is present in the prior art as set forth in the previous Office Action rejection. In short, the following must be established for the record: In figures 1, 3-5, 15-17, 23-25, 33-38, is hub 14 prevented from further movement in the INSTALLATION DIRECTION and if so by what? Again noting that the ring described with regard to element 13 is for preventing removal in the removal direction and appears to have no feature to prevent further movement from what is shown in the figures in the INSTALLATION DIRECTION.